

## UNITED STATES DISTRICT COURT

SOUTHERN

DISTRICT OF

TEXASUNITED STATES OF AMERICA  
V.United States Courts  
Southern District of Texas  
FILED

DANNY WAYNE BELL

DEC 20 2010

## CRIMINAL COMPLAINT

Case Number:

H-10-1245-M

David J. Bradley, Clerk of Court

(Name and Address of Defendant)

I, the undersigned complainant, state that the following is true and correct to the best of my knowledge and belief. On or about December 15, 2010 in Harris County, in  
 (Date)  
 the Southern District of Texas defendant(s) did,

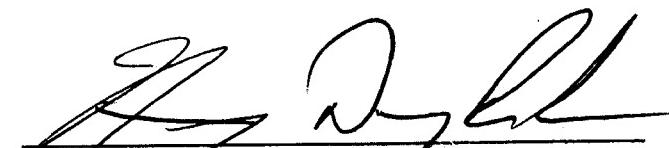
(Track Statutory Language of Offense)

unlawfully, knowingly and intentionally combine conspire, confederate, and agree to commit an offense defined in Title 21 United States Code, Section 841 (a)(1), that is, to possess with the intent to distribute a controlled substance. The violation involves cocaine in violation of Title 21 United States Code, Sections(s) 841(a)(1),841(b)(1)(B) & 846.

in violation of Title 21 United States Code, Section(s) 846, 841(a)(1), 841(b)(1)(B).

I further state that I am a(n) Sr. Officer Houston Police Dept. and that this complaint is based on the  
 Official Title  
 facts related in the affidavit attached hereto and made a part of this complaint.

(See attached Affidavit)

  
 Signature of Complainant

Daniel Rosales  
 Printed Name of Complainant

Sworn to before me and signed in my presence,  
 and, I find probable cause.

December 20, 2010

Date

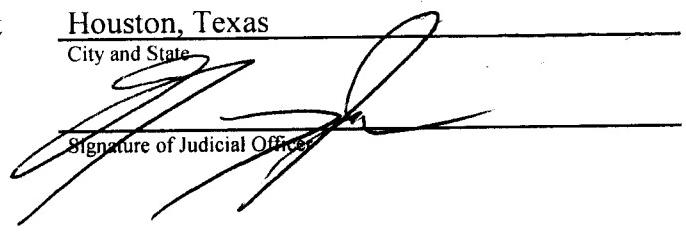
at

Houston, Texas

City and State

Nancy Johnson, United States Magistrate Judge

Name and Title of Judicial Officer

  
 Signature of Judicial Officer

## AFFIDAVIT FOR SEARCH WARRANTS and ARREST WARRANTS

I, Daniel Rosales, being duly sworn, hereby depose and state:

### INTRODUCTION

My name is Daniel Rosales and I am commissioned as a peace officer by The Houston Police Department. I have been a peace officer for 27 years, and I have worked numerous criminal investigations involving narcotics and weapons. I have also conducted investigations regarding corruption and other related offenses.

For the last several months, I have been conducting an investigation into allegations of State corruption in the sale, transport and distribution of narcotics, such as cocaine in the Southern District of Texas. The target of this investigation, Richard Bryan Nutt, Jr., is an employee of the Harris County Sheriff's Department. He and several recently identified co-defendants, were found to be in possession of cocaine with intent to distribute in violation of 21 U.S.C. 841(a), conspiracy to possess cocaine in violation of 21 U.S.C. 846, as well as possession of firearms by a felon in violation of 18 U.S.C. 922(g).

The search warrant sought requests authority to search and computers and cell phones that were obtained by law enforcement during the course of the investigation into the above referenced offenses. Affiant has probable cause to believe that evidence showing communication between the co-defendants is contained on the cell phones and computers and that evidence of the criminal conduct such as records, dates, times, and photos is contained on the cell phones and computers.

This affidavit is submitted to support the application to search cell phones, computers and electronic storage devices, retrieved, pursuant to a search warrant and consent, from 2017 Eubanks, Houston, Southern District of Texas and described as follows:

1. Cellular telephone/ personal data devices
  - a. BlackBerry #713 898-0198,
  - b. Motorola Boost Mobile #281 272-3173,
  - c. Nextel Motorola i576 # 281-905-0845 / 143\*851\*12058,
  - d. Motorola Boost Mobile # 832 473-1170 / 143\*578\*6799
  - e. Motorola boost Mobile # 713 454-4557 / 143\*405\*6864,
  - f. Motorola i880 # 832 309-7810
  - g. Verizon 936-329-1220, &
  - h. Sprint 713-551-6434
2. Computers
  - a. A Black and Silver, hard driver Central Processing Unit removed from 2017 Eubanks, Houston, Texas;
  - b. An Apple laptop, model Mac Book Air, serial number W88240EEY51, removed from 2017 Eubanks, Houston, Texas;

## **STATUTES VIOLATED**

This affidavit seeks a search warrant to obtain evidence of the felony violations of 21 USC 841(a)(1) which states that it shall be unlawful for any person knowingly or intentionally to...distribute, . . . possess with intent to ... distribute, or dispense, a controlled substance, such as cocaine; 21 U.S.C. section 846, conspiracy, which states that any person who...conspires to distributed cocaine commits a felony offense; Title 18, United States Code, Sections 922(g) which states that it is unlawful for any person who has been convicted of a crime punishable by imprisonment for a term exceeding one year, to knowingly possess a firearm.

## **DEFINITIONS REGARDING COMPUTERS, E-MAILS, AND THE INTERNET**

Affiant and his agency have both training and experience in the investigation of narcotics offenses and both computers and cellular telephones are used in the commission and facilitation of such offenses. The terms related to such devices are explained below:

The term "computer" as used herein includes any electronic, magnetic, optical, electrochemical, other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device. The computer in this case

- a. The Internet is a worldwide network of computer systems operated by governmental entities, corporations, and universities. In order to access the Internet, an individual computer user must subscribe to an Internet Service Provider (ISP), which operates a host computer system with direct access to the Internet. ISPs may provide other services such as remotely storing data files on behalf of their customers, as well as other services unique to each particular ISP. The World Wide Web is a service on the Internet that allows users of the Internet to share information;
- b. With a computer connected to the Internet, an individual computer user can make electronic contact with millions of computers around the world. This connection can be made by any number of means, including modem, cable modem, DSL, satellite, local area network, wireless, and numerous other methods; and
- c. E-mail is a popular form of transmitting messages and files in an electronic environment between computer users. When an individual computer user sends an e-mail message, it is initiated at the user's computer, transmitted to the subscriber's mail server, which is then transmitted to its final destination. A server is a computer that is attached to a dedicated network and serves many users. An e-mail server may allow users to post and read messages and to communicate via electronic means.
- d. Surveillance recordings from cameras at 2017 Eubanks, Houston, Texas.

## FACTS AND PROBABLE CAUSE:

### Summary

Richard Bryan Nutt Jr., a member of the Harris County Sheriff's Department, DOB 02-14-1967, Richard Jerome Banks, DOB 12-13-1972, John Edward Scott DOB 03-20-1976 and Danny Wayne Bell 05-28-70 engaged in a conspiracy to possess and distribute cocaine by robbing other narcotics traffickers. The conspirators used cell phones, electronic media and computers to further the conspiracy scheme, which is generally outlined as follows.

### Specifics

Affiant has probable cause for said belief by reason of the following facts and circumstances:

Based upon information collected from sources, affiant obtained information that members of law enforcement were robbing shipments of narcotics in Houston, Texas. The information obtained by affiant indicated a location where law enforcement may detain a drug trafficker and seize the narcotics. The law enforcement officer would then release the trafficker and provide the narcotics to local dealers for distribution.

In order to corroborate the information received by Affiant, information was provided to suspects that the vehicle contained cocaine. on December 15, 2010, Affiant and others officers deployed a "bait" vehicle containing approximately 1 kilogram of cocaine. (Note-the cocaine was previously tested and positive for cocaine by the Houston Police Department Crime Laboratory.) The bait vehicle is a 2007 Chrysler Aspen SUV, Texas License Plate "RTR900." The "bait" vehicle is the property of the Houston Police Department, and throughout the investigation the bait vehicle was under the care, custody, and control of the Houston Police Department Narcotics Division.

The "bait" vehicle (2007 Chrysler Aspen SUV) was under surveillance by Houston Police Department officers and the vehicle was driven by an undercover officer. At a point during the investigation when surveillance officers believed the "bait" was being followed, it was parked in a parking lot in the 13400 block of the East Freeway, Houston, Southern District of Texas. Affiant was involved in the surveillance of the "bait" vehicle and observed three different suspect vehicles conducting surveillance on the bait vehicle. Specifically, Affiant observed 2011 Silver 4-door Chevrolet Pickup Truck, Texas License Plate "AT33154;" Black 4-door Buick Lacrosse, Texas License Plate "BZ2B082;" 2010 Blue 4-door Nissan Altima, Oklahoma License Plate "181FZW." Affiant observed multiple suspects seated within these suspect vehicles. Based upon Affiant's observations, Affiant believes that there were a minimum of six different suspects. Affiant observed these suspect vehicles stop at the "bait" vehicle. Affiant observed suspects exit the suspect vehicles, approach, and enter the bait vehicle.

Throughout the surveillance period, a tracking device was affixed to the packages of cocaine. During the surveillance period the cocaine originally placed inside of the bait vehicle was removed from the bait vehicle. Officers ~~the~~ tracking signal which was moving with a 2010 Blue 4-door Nissan Altima as it exited the parking lot with the packages of cocaine from the bait vehicle. Officers conducted a traffic stop on the vehicle, Officers observed Suspect Richard Banks to be the driver, and Suspect Richard Nutt to be the front seat passenger. Officers observed that Suspect Richard Nutt was dressed wearing a Harris County Sheriff's Office police uniform, with his firearm. Officers recovered the packages of cocaine from underneath the front passenger seat where Suspect Richard Nutt was seated. Officers arrested Richard Nutt and Richard Banks, who were each in possession of a cellular telephone, which Affiant believes were used to communicate with the co-conspirators to coordinate the scheme and to communicate

while following the "bait" vehicle. Officer seized the Verizon cell phone with number 936-329-1220 from Richard Nutt and the Sprint cellular telephone with number of 713-551-6434.

The "bait" vehicle was also equipped with a tracking device and the suspects were led to believe that additional cocaine was located in a hidden compartment of the "bait" vehicle. After the two kilograms of cocaine was removed as described above, a separate set of individuals removed the "bait" vehicle from the parking lot. Houston Police Officers tracked the "bait" to 2017 Eubanks, Houston, Harris County, Texas, which is surrounded by a 7 foot wooden fence. The front of the residential property is surrounded by a chain link fence.

Houston Police Officers went to the location and approached the residence at 2017 Eubanks, Houston, Harris County, Texas. As officers approached the residence the officers observed the bait vehicle located in the rear of the residence. Officer also saw 2011 Silver 4-door Chevrolet Pickup truck, Texas License Plate "AT33154" which was seen earlier to be conducting surveillance on the "bait" vehicle as well at the Black 4-door Buick Lacrosse, Texas License Plate "BZ2B082" in the driveway of the residence.

The bait vehicle was on the property at 2017 Eubanks, Houston, Southern District of Texas, and Officers observed and detained three suspects, who were on the property at 2017 Eubanks, Houston, Harris County, Texas. Officers had knowledge that there were additional suspects observed participating in the theft of the bait vehicle during the surveillance period.

Officers entered the residence to do a protective sweep of the residence looking for the remaining unknown suspect(s) and to secure the residence to recover the stolen bait vehicle. During the protective sweep Houston Police SWAT Officer R.J McCusker observed in plain view a Tupperware bowl containing marijuana residue and seeds, a small zip lock baggie containing a white powder substance, and a scale. Officer McCusker has made many narcotics related arrests and is able to recognize marijuana on sight. Officer McCusker advised me that it was marijuana residue and seeds from marijuana. Officer McCusker believes that the white powder is cocaine. Officer McCusker has seen cocaine many times and made many arrests for cocaine.

Affiant observed the "bait" vehicle, which had a hidden compartment located in the rear of the vehicle that was open. Affiant has personal knowledge that the hidden compartment of "bait" vehicle was closed before it was stolen from the parking lot.

Affiant asked Danny Bell, who was present at 2017 Eubanks for consent to search for the residence. Danny Bell advised Affiant that he would not give consent to search for the residence and told Affiant that he had been staying there at the house approximately 6 months. Affiant later obtained a search warrant for the premises, which was executed on the same day. Affiant and others discovered approximately fourteen (14) pounds of marijuana, fourteen firearms, and about 308 grams of cocaine in the residence. Affiant also discovered various personal items such as mail and prescription bottles in the name of Danny Bell which showed that he had custody and control of the premises. (Note: Danny Bell was also found to be a convicted felon).

John Edward Scott was also on the premises and believed to be the driver of the Black 4-door Buick Lacrosse. Scott was given his legally required warnings and he provided a statement to law enforcement officers. Scott advised that he was a lookout for the narcotics transaction and that he was driving the Black 4-door Buick Lacrosse. Scott stated that he was a lookout for a Mexican transporting drugs. Suspect Scott advised that he was going to be paid cash for watching the other suspects' "back."

Affiant and other officers arrested John Edward Scott and Danny Bell at 2017 Eubanks. Affiant discovered that Danny Bell was in possession of a BlackBerry with number 713 898-

0198, which affiant has probable cause to believe was used to communicate with co-conspirators regarding the narcotics operation. John Scott was also in possession of two cellular telephones, a Nextel Motorola i576 # 281-905-0845 / 143\*851\*12058 and a Motorola Boost Mobile # 832 473-1170 / 143\*578\*6799, which Affiant has probable cause to believe were used communicate with co-conspirators regarding the narcotics operation.

Affiant is aware that drug dealers will use cameras, surveillance equipment, cellular telephones and other electronic devices to communicate and to secure and protect controlled substances. Affiant observed that the residence at 2017 Eubanks contained numerous surveillance cameras that were wired to the inside of the residence. Affiant observed at least two cameras on the outside of the residence, one pointed towards the driveway. Seizing any recordings made on the surveillance cameras would be beneficial in providing affirmative links to who was involved in the theft of the "bait" vehicle that contained the 1 kilogram of cocaine. In addition, Affiant observed two computers upon execution of the search warrants at the premises. These computers are described as a black and silver, hard driver central processing unit and a Apple laptop, model Mac Book Air, serial number W88240EEY51. Affiant is aware that narcotics traffickers will communicate by computer and store names of contacts as well as documents related to illegal activity on such computers that were seized in close proximity to narcotics and weapons. In addition, officers found and seized several additional cellular telephones on the premises. A Motorola boost, Mobile # 713 454-4557 / 143\*405\*6864, was recovered from North East corner of backyard on a work bench at 2017 Eubanks. Motorola i880 # 832 309-7810 was recovered from North East corner of backyard at 2017 Eubanks.

#### **CONCLUSION**

Based on training and experience and the fact that the suspects were involved in the running surveillance and theft of one kilogram of cocaine from the bait vehicle, the theft of the bait vehicle, and the possession marijuana and narcotics at 2017 Eubanks, Houston, Affiant request a warrants for arrest and a warrants to allow the search of cellular telephones and computers.

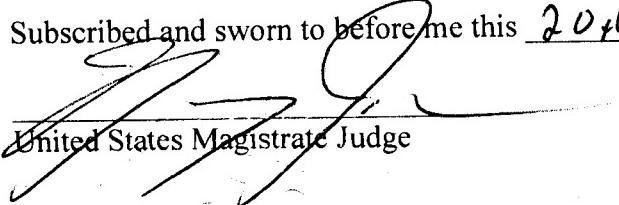
#### **REQUEST TO SEAL**

Because this is part of an ongoing investigation and based upon the information set forth in this application, Affiant respectfully requests that this court seal the arrest warrants, search warrants, applications and affidavits.



Daniel Rosales  
Senior Police Officer  
Narcotics Division

Subscribed and sworn to before me this 20 day of December 2010



United States Magistrate Judge